

### **REMARKS**

Claims 2 and 18 have been canceled. Claims 1, 3, 5, 6 and 13-17, 19 and 20 are active in the case. Reconsideration is respectfully requested.

The present invention relates to a hair cosmetic composition containing monoethanolamine which not only does not give-off an odor of monoethanolamine, but, in fact, has a different odor unique to itself in which the odor of monoethanolamine is not detectable.

### **Specification Amendments**

The text at pages 3 and 4 has been amended in the several places indicated in order to make minor corrections to errors in the names of the various fragrance compounds disclosed. None of the amendments made are believed to have introduced new matter into the case. Entry of the amendments is respectfully requested.

### **Claim Amendments**

Claims 1, 17 and 19 have been amended by further limiting the cis-3-hexenol content of the fragrance additive (A) of the hair cosmetic formulation of the invention from 0.1 to 50 % to the range of 20 to 50 wt %. Thus, the claimed range of cis-3-hexenol content is now stated as having a minimum of 20 %. The amended range represents a material narrowing of the content range for cis-3-hexenol. Basis for the amount of 20 % cis-3-hexenol is found in the formulation of fragrance ingredient (A) on page 9 of the text. In view of the support for the limitation and the narrowing of the content range of cis-3-hexenol, consideration of the

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amendment does not broaden the scope of the Examiner's consideration of the invention as claimed. Entry of the amendment is respectfully requested.

### Invention

The present invention is directed to a hair cosmetic composition which contains the specific combination of monoethanolamine (a base constituent of the hair cosmetic formulation) and cis-3-hexenol, as a component of a fragrance component. It is the discovery of the present invention that when monoethanolamine is present in a hair cosmetic formulation that includes oxidation dye compositions, the distinctive objectionable odor of monoethanolamine is eliminated by the inclusion of not just any fragrance compound, but cis-3-hexenol specifically, and then in an amount of 20 to 50 % within the fragrance ingredient which is added to a given hair cosmetic formulation. In fact, the odor of the composition that results is distinctive and is such that the odor of monomethanolamine is not detectable and has a desirable unique fragrance. Another embodiment of the invention is an oxidation hair coloring or hair bleaching formulation, comprising (A) a fragrance ingredient comprising cis-3-hexenol in an amount ranging from 20 to 50 wt % and (B) monoethanolamine, in which the amount of cis-3-hexenol in the composition is such that it masks the odor of the monoethanolamine.

### Prior Art Rejection

In the prosecution of the parent application, Claims 1-3, 5, 6 and 16-19 stood rejected based on 35 USC 103(a) as obvious over GB 2033939 in view of XP-002226338. This

ground of rejection is respectfully traversed.

Applicants emphasize in view of the presently amended claims that the unique and different aspect of the invention is not just the use of cis-3-hexenol as a necessary component of a fragrance additive to the present hair treatment formulation as claimed, but that the relative amount of cis-3-hexenol used is significantly higher than is normal in the addition of a fragrance to a hair treatment formulation in that cis-3-hexenol constitutes from 20 to 50 % of the fragrance additive. At this high level or concentration of cis-3-hexenol, a distinctly different and fresh odor or smell for the composition results. This particular odor only results from the combination of cis-3-hexenol and monoethanolamine in the present composition. Normally, when cis-3-hexenol is used as a fragrance in a cosmetic composition, it is used in small amounts because of its grassy smell, i.e., in amounts of up to 1 or 2 % at most. Note in this connection that the attached publication of the Merck Index (12<sup>th</sup> Edition) discloses that cis-3-hexenol is known to have a strong odor that resembles isoamyl alcohol and that approaches the odor of green leaves. Line 8 of page 53 of the "Synthetic Perfume and the Knowledge of Their Products" (attached) discloses that there is an upper limit to the amount of cis-3-hexenol that is used because of its strong smell. Accordingly, it is clear that one of skill in the art is well aware that upon use of cis-3-hexenol as a fragrance additive, it should only be used in the small amounts indicated above. Clearly, one of skill in the art would not be led to use the compound in the amounts required in the present claims of 20 to 50 % of the fragrance added to a hair cosmetic composition.

Turning now to the '939 patent, the same discloses a hair bleaching composition which in some embodiments of Examples 1-3 contains monoethanolamine, which is a

common ingredient in hair cosmetic formulations, none of the examples show the presence of a fragrance. The patent at page 3 lines 114-118 teaches that excipients such as perfumes can be added to the disclosed hair treatment formulations. However, there is no mention of cis-3-hexenol as a perfume or fragrance. This deficiency is critical because the effect of the present invention is specific in that cis-3-hexenol has a specific ability to mask the odor of monoethanolamine to not only eliminate any detectable scent of the monoethanolamine, but to actually give rise to a specifically different, but pleasant, fresh odor. Thus, there is nothing in the patent that would lead one of skill in the art to specifically add cis-3-hexenol to the monoethanolamine containing compositions exemplified in the patent.

The deficiencies of the '939 patent are neither overcome nor improved by the '338 reference. The '338 document only teaches what is well known and that is a variety of fragrances have been incorporated in cosmetic compositions to mask or deodorize the smell of **ammonia** that is emitted from various cosmetic compositions that contain **ammonia**. Suitable deodorants include cis-3-hexenol. However, there is no teaching or suggestion in the reference that cis-3-hexenol, specifically, has the ability to completely mask the odor of monoethanolamine from a cosmetic composition, and, in fact, so modify the odor characteristics of a monoethanolamine containing composition that a completely different odor uncharacteristic of either monoethanolamine or cis-3-hexenol results. Moreover, as indicated above, the completely different odor that is achieved with the use of cis-3-hexenol in the present invention is only achieved when extraordinarily high amounts of the compound as a fragrance additive are used. Accordingly, the combination of the references does not suggest the invention as claimed in any of its embodiments and withdrawal of the rejection is

respectfully requested.

In the prosecution of the parent application, Claims 1-3, 5, 6 and 13-19 stood rejected based on 35 USC 103(a) as obvious over Yoshida et al in view of Fragrance Journal or JP 2001154644. This ground of rejection is respectfully traversed.

The Yoshida et al patent is believed of limited relevance to the present invention because the essence of the disclosure is the use of succinoglycan, as a water soluble polymer, in hair dye compositions of two basic types, one of which is an acidic hair composition and the other is an oxidation hair dye composition. Of the two types of compositions, the acidic type is irrelevant to the present invention, as such is acidic in which environment the base ingredients of ammonia or monoethanolamine would not be incorporated. The second type, or oxidation hair dye composition, is of the type of the present invention and as such various bases including ammonia and monoethanolamine (col 8, lines 35-43) are incorporated in such oxidation hair treatment compositions as a base. Of the examples in the patent, only those of columns 21-25 are of the oxidation type and only one of which, Example B4, contains monoethanolamine. While this example is said to contain a perfume, there is no teaching of any specific fragrance, and certainly not cis-3-hexenol. This can be said about the patent in its entirety. One of skill in the art would in no way be led to specifically incorporate cis-3-hexenol as a fragrance in an oxidation dye composition of the patent that contains monoethanolamine as an alkali ingredient.

The deficiencies of Yoshida et al are neither overcome nor improved upon by Fragrance Journal. The indicated portion of the disclosure only shows that the addition of a fragrance such as cis-3-hexenol is useful as an odor masking agent in a hair treatment

formulation that contains ammonia and ammonium thioglycolate. There is no teaching or suggestion of an oxidation-type of hair treatment formulation that contains specifically only cis-3-hexenol as a fragrance which masks the odor of monoethanolamine as an alkali agent in the composition. In fact, it is clear that in the masking of the ammonia odor of the composition embodiments of the reference, cis-3-hexenol is completely equivalent to a number of other fragrances which include citronellol, geraniol, linalool and the like. Moreover, it should be noted that the publication specifically at the bottom of page 2 and in the first paragraph of page 4 that the amount of perfume additive such as cis-3-hexenol added to a hair treatment composition is **0.1 %**. This disclosure is completely consistent with applicants' statements above that the existing prejudice in the art is that a fragrance or perfume such as cis-3-hexenol should be added to a cosmetic formulation in an amount of about 0.1 % up to about 1 or 2 %. No teaching in any of the references lead one of skill in the art to use any fragrance, let alone cis-3-hexenol, in a cosmetic formulation. Accordingly, the cited references do not suggest the invention as claimed and withdrawal of the rejection is respectfully requested.

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It is now believed that the application is in proper condition for consideration on its merits.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "F.O. Oblon", is written over a horizontal line.

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